

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLIE D. JACKSON, F03949,)	
)	
Plaintiff(s),)	No. C 12-2516 CRB (PR)
)	
v.)	ORDER OF DISMISSAL
)	WITH LEAVE TO AMEND
CALIFORNIA DEPT' OF CORRECTIONS)	
& REHABILITATION, et al.,)	(Docket #57, 64, 65, 67 & 70)
)	
Defendant(s).)	

On May 16, 2012, while plaintiff was a prisoner at San Quentin State Prison (SQSP), he filed a pro se complaint under 42 U.S.C. § 1983 alleging continued harassment from correctional officers since he filed an administrative appeal against a correctional officer that resulted in the correctional officer being fired. Among other things, plaintiff alleged that correctional officers routinely contaminate his meals with toxic substances, tamper with his mail, and verbally abuse him and call him a "rat" and a "snitch."

Per order filed on July 30, 2012, the court found that, liberally construed, plaintiff's allegations of continued and pervasive serious harassment from correctional officers at SQSP appear to state a cognizable claim for injunctive relief under § 1983 and ordered the claim served on SQSP Warden Kevin P. Chappell. Defendant was ordered to file a dispositive motion within 90 days.

1 On September 28, 2012, plaintiff filed a voluminous First Amended
2 Complaint (FAC) alleging numerous violations of his First Amendment right to
3 freedom of speech and Eighth Amendment right against cruel and unusual
4 punishment against sixty-four defendants. Plaintiff seeks declaratory, injunctive
5 and monetary relief.

6 Per order filed on October 9, 2012, the court stayed discovery until the
7 FAC is screened under 28 U.S.C. § 1915A. But plaintiff recently informed the
8 court that he has been released from prison and wishes to withdraw his request
9 for a preliminary injunction. Plaintiff's release from prison indeed renders moot
10 his claims for declaratory and injunctive relief. See Alvarez v. Hill, 667 F.3d
11 1061, 1064 (9th Cir. 2012); Dilley v. Gunn, 64 F.3d 1365, 1368-69 (9th Cir.
12 1995). Plaintiff may only proceed with claims for monetary relief against
13 individual defendants, which requires that he allege specific facts showing how
14 each named defendant actually and proximately caused the deprivation of his
15 federally protected rights of which he complains. See Leer v. Murphy, 844 F.2d
16 628, 633-34 (9th Cir. 1988).


17 Good cause appearing therefor, the FAC is DISMISSED with leave to
18 amend, as indicated above, within 30 days of this order. The pleading must be
19 simple and concise and must include the caption and civil case number used in
20 this order and the words SECOND AMENDED COMPLAINT on the first page.
21 Failure to file a proper amended complaint within the designated time will result
22 in the dismissal of this action.

23 Plaintiff is advised that the amended complaint will supersede the original
24 complaint and all other pleadings. Claims and defendants not included in the
25 amended complaint will not be considered by the court. See King v. Atiyeh, 814
26 F.2d 565, 567 (9th Cir. 1987).

1 Plaintiff's various pending miscellaneous motions (docket #57, 64, 65, 67
2 & 70) are dismissed as moot and/or for lack of merit.

3 SO ORDERED.

4 DATED: January 3, 2013

5 
6 CHARLES R. BREYER
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28